

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
AIKEN DIVISION**

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|--|---|------------------------------------|
| Tyrone Edwards James, |) | Civil Action No. 1:19-cv-00152-JMC |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | ORDER |
| |) | |
| Officer Jordan; Officer Piocci; |) | |
| Officer Naroquin; Officer Rarco; |) | |
| Officer Smalls; Officer Anderson; |) | |
| Officer Hemberger; Officer Brown; |) | |
| Officer Smith; Officer Moultrie; |) | |
| Officer Atwood; Officer Castellano; |) | |
| Officer Austin; Officer Kennedy; <i>in</i> |) | |
| <i>their official capacities,</i> |) | |
| |) | |
| Defendants. |) | |
| |) | |

Plaintiff Tyrone Edwards James, proceeding *pro se*, filed a Complaint alleging violations of his constitutional rights. (ECF No. 1.) The matter before the court is a review of the Magistrate Judge’s Report and Recommendation (“Report”), which recommends that the court dismiss the Complaint for Plaintiff’s failure to prosecute. (ECF No. 40 at 2.)

On May 20, 2019, Defendants filed a Motion to Dismiss pursuant to Fed. R. Civ. P. 12(b)(1) and Fed. R. Civ. P. 12(b)(6). (ECF No. 31.) The Magistrate Judge issued a *Roseboro* Order notifying Petitioner of Respondent’s motion and advising him of the possible consequences if he failed to respond adequately. (ECF No. 33.) On October 28, 2019, the Magistrate Judge issued a Report recommending that the court grant Defendants’ Motion to Dismiss with prejudice for lack of prosecution. (ECF No. 40 at 2.)

The Magistrate Judge’s Report is made in accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02 for the District of South Carolina. The Magistrate Judge only makes a recommendation to this court, and the recommendation has no presumptive weight. *See Mathews*

v. Weber, 423 U.S. 261, 270–71 (1976). The responsibility to make a final determination remains with the court. *Id.* at 271. As such, the court is charged with making *de novo* determinations of those portions of the Report to which specific objections are made. *See* 28 U.S.C. § 636(b)(1); *see also* Fed. R. Civ. P. 72(b)(3). In the absence of specific objections to the Magistrate Judge’s Report, the court is not required to give any explanation for adopting the Report. *See Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). Rather, “in the absence of a timely filed objection, a district court need not conduct a *de novo* review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee’s note). Thus, the court may accept, reject, or modify, in whole or in part, the Magistrate Judge’s recommendation or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

The court is required to interpret *pro se* documents liberally and will hold those documents to a less stringent standard than those drafted by attorneys. *See Gordon v. Leake*, 574 F.2d 1147, 1151 (4th Cir. 1978); *see also Hardin v. United States*, C/A No. 7:12-cv-0118-GRA, 2012 WL 3945314, at *1 (D.S.C. Sept. 10, 2012). Additionally, *pro se* documents must be construed in a favorable manner, “no matter how inartfully pleaded, to see whether they could provide a basis for relief.” *Garrett v. Elko*, No. 95-7939, 1997 WL 457667, at *1 (4th Cir. Aug. 12, 1997). Although *pro se* documents are liberally construed by federal courts, “[t]he ‘special judicial solicitude’ with which a district court should view *pro se* complaints does not transform the court into an advocate.” *Weller v. Dep’t of Soc. Servs. for Balt.*, 901 F.2d 387, 391 (4th Cir. 1990).

In the absence of specific objections to the Report, the court is not required to give any explanation for adopting the Report and must only satisfy itself that the record contains no clear error. *See Camby*, 718 F.2d at 199; *see also Diamond*, 416 F.3d at 315. Here, Plaintiff failed to

heed the court's warnings, which merits the dismissal of his Complaint. Therefore, the court **ACCEPTS** the Magistrate Judge's Report and Recommendation (ECF No. 40), **GRANTS** Defendants' Motion to Dismiss (ECF No. 31), and **DISMISSES** Plaintiff Tyrone Edwards James' Complaint (ECF No. 1) with prejudice.

IT IS SO ORDERED.



United States District Judge

January 24, 2020
Columbia, South Carolina